

**ASSEMBLY BILL**

**No. 689**

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**Introduced by Assembly Member Charles Calderon**

February 26, 2009

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An act to amend Sections 30121 and 30131.1 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 689, as introduced, Charles Calderon. Cigarette and Tobacco Products Tax Law: tobacco products.

The Cigarette and Tobacco Products Tax Law imposes a tax on every distributor of cigarettes and tobacco products, as defined, at specified rates, including additional taxes imposed under the laws that were enacted by the Tobacco Tax and Health Protection Act of 1988 (Proposition 99) an initiative measure approved by the electorate, November 8, 1988, and the California Children and Families First Act of 1998 (Proposition 10) an initiative measure approved by the electorate, November 3, 1998. Provisions of the law define tobacco products to include any articles or products made of, or containing at least 50%, tobacco, other than cigarettes. The violation of provisions of the law, including requirements and prohibitions relative to tobacco products, is generally a misdemeanor.

Proposition 99 prohibits the Legislature from amending provisions of the Tobacco Tax and Health Protection Act of 1988 except by a  $\frac{4}{5}$  vote of the membership of both houses of the Legislature and then only if consistent with the act. The California Children and Families First Act of 1998 may be amended only by a vote of  $\frac{2}{3}$  of the membership of both houses of the Legislature and then only if in furtherance of the act and consistent with its purposes.

This bill would revise the definition of tobacco products to include any articles or products made of, or containing, tobacco, other than cigarettes. Because the bill would expand the definition of tobacco products, it would expand the application of the criminal provisions related to tobacco products and would thereby impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote:  $\frac{4}{5}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 30121 of the Revenue and Taxation Code  
2 is amended to read:

3 30121. For purposes of this article:

4 (a) “Cigarettes” has the same meaning as in Section 30003, as  
5 it read on January 1, 1988.

6 (b) “Tobacco products” includes, but is not limited to, all forms  
7 of cigars, smoking tobacco, chewing tobacco, snuff, and any other  
8 articles or products made of, or containing ~~at least 50 percent,~~  
9 tobacco, but does not include cigarettes.

10 (c) “Fund” means the Cigarette and Tobacco Products Surtax  
11 Fund created by Section 30122.

12 SEC. 2. Section 30131.1 of the Revenue and Taxation Code  
13 is amended to read:

14 30131.1. The following definitions apply for purposes of this  
15 article:

16 (a) “Cigarette” has the same meaning as in Section 30003, as  
17 it read on January 1, 1997.

18 (b) “Tobacco products” includes, but is not limited to, all forms  
19 of cigars, smoking tobacco, chewing tobacco, snuff, and any other  
20 articles or products made of, or containing ~~at least 50 percent,~~  
21 tobacco, but does not include cigarettes.

22 SEC. 3. The Legislature hereby finds and declares that  
23 provisions of this act are in furtherance of, and consistent with the

1 purposes of, the Tobacco Tax and Health Protection Act of 1988  
2 and the California Children and Families First Act of 1998.

3 SEC. 4. No reimbursement is required by this act pursuant to  
4 Section 6 of Article XIII B of the California Constitution because  
5 the only costs that may be incurred by a local agency or school  
6 district will be incurred because this act creates a new crime or  
7 infraction, eliminates a crime or infraction, or changes the penalty  
8 for a crime or infraction, within the meaning of Section 17556 of  
9 the Government Code, or changes the definition of a crime within  
10 the meaning of Section 6 of Article XIII B of the California  
11 Constitution.

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